

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 7-9 are requested to be cancelled without prejudice.

Claims 1 and 4 are currently being amended.

Claims 10-40 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-6 and 10-40 are now pending in this application.

Rejection of Claims 1 and 2 under 35 U.S.C. § 102(b)

On page 3 of the Office Action, Claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as being anticipated by Girard et al. (5,802,882). Claim 1, as amended, recites an element not taught or suggested by Gerard et al., so Claim 1 is not anticipated by Gerard et al.

Claim 1 has been amended to recite "wherein the shrink yarn is selected such that prior to shrinking the shrink yarn the suspension fabric cover is less taut to the seat frame than after shrinking the shrink yarn." Girard et al. does not teach or suggest a seat having a suspension fabric cover having a shrink yarn where the suspension fabric cover is less taut to the seat frame before shrinking of a shrink yarn than after shrinking the shrink yarn. Rather, Girard et al. teaches a heat indicator 42, 62, 72 which is a small portion of the vehicle seat cover that serves as an indicator tab to indicate that the seat has been heat treated. Col. 1, lines 35-42; Col. 4, lines 44-48 and 59-67; and Col. 5, lines 1-9. Since Girard et al. does not teach or suggest an element of Claim 1, Girard et al. does not anticipate or render obvious

Claim 1. Claim 2 depends from Claim 1 and overcomes the rejection for at least the same reason as Claim 1.

Rejection of Claims 4 and 5 under 35 U.S.C. § 102(b)

On page 3 of the Office Action, Claims 4 and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by Girard et al. (5,802,882). Claim 4, as amended, recites an element not taught or suggested by Gerard et al., so Claim 4 is not anticipated by Gerard et al.

Claim 4 has been amended to recite “wherein heating the combination of the frame and double jersey knit causes the heat shrinkable double jersey knit cover to become more taut around the frame.” Girard et al. does not teach or suggest a seat having a structure such as one formed by a process where heating the combination of the frame and double jersey knit would cause the heat shrinkable double jersey knit cover to become more taut around the frame. Rather, Girard et al. teaches a heat indicator 42, 62, 72 which is a small portion of the vehicle seat cover that serves as an indicator tab to indicate that the seat has been heat treated. Col. 1, lines 35-42; Col. 4, lines 44-48 and 59-67; and Col. 5, lines 1-9. Since Girard et al. does not teach or suggest an element of Claim 4, Girard et al. does not anticipate or render obvious Claim 4. Claim 5 depends from Claim 4 and overcomes the rejection for at least the same reason as Claim 4.

Rejection of Claim 3 under 35 U.S.C. § 103(a)

On page 3 of the Office Action, Claim 3 was rejected under 35 U.S.C. § 103(a) as unpatentable over Girard et al. (5,802,882) in view of Blake (US2003/0056703). The Office Action states that “Girard et al. shows all of the claimed features of the instant invention with the exception of the another yarn being a false twist yarn.” Claim 3 depends from Claim 1, and, as discussed above with respect to Claim 1, Girard et al. fails to teach or suggest “the shrink yarn is selected such that prior to shrinking the shrink yarn the suspension fabric cover is less taut to the seat frame than after shrinking the shrink yarn.” Blake also fails to teach or suggest this claim feature. Since neither reference teaches or suggests “the shrink yarn is selected such that prior to shrinking the shrink yarn the suspension fabric cover is less taut to

the seat frame than after shrinking the shrink yarn,” Girard et al. in view of Blake does not render Claim 3 obvious.

Rejection of Claim 6 under 35 U.S.C. § 103(a)

On page 4 of the Office Action, Claim 6 was rejected under 35 U.S.C. § 103(a) as unpatentable over Girard et al. (5,802,882) in view of Blake (US2003/0056703). The Office Action states that “Girard et al. shows all claimed structural features of the instant invention with the exception of the another yarn being a false twist yarn.” Claim 6 depends from Claim 4, and, as discussed above with respect to Claim 4, Girard et al. further fails to teach or suggest that “heating the combination of the frame and double jersey knit causes the heat shrinkable double jersey knit cover to become more taut around the frame.” Blake also fails to teach or suggest this claim feature. Since neither reference teaches or suggests a structure formed by a process wherein “heating the combination of the frame and double jersey knit causes the heat shrinkable double jersey knit cover to become more taut around the frame”, Girard et al. in view of Blake does not render Claim 6 obvious.

New Claims

Claims 10-40 have been added. Claims 10-40 are supported in the specification as originally filed. Claim 10 is supported by original Claim 1 and by paragraphs [0007] and [0008]. Claims 11-14, 20, 27-30, 33-34, and 36 are supported in the specification at at least paragraphs [0022] and [0023]. Claims 15, 18, 32, and 37 are supported in the specification at at least paragraph [0024]. Claim 16 is supported in the specification at at least paragraph [0002]. Claims 17 and 21 are supported in the specification at at least paragraph [0008]. Claim 22 is supported in the specification at at least paragraph [0011]. Claims 19 and 23 are supported in the specification at at least paragraph [0012]. Claims 24 and 25 are supported in the specification at at least paragraph [0011] and [0012]. Claims 31 and 35 are supported in the specification at at least paragraph [0006]. Claims 38-40 are supported in the specification at at least paragraph [0011].

Claims 10-26 are believed to be directed to allowable subject matter. Specifically, Claim 10 recites “wherein the shrink yarn is selected such that prior to shrinking the shrink

yarn the suspension fabric cover is less taut to the seat frame than after shrinking the shrink yarn" which is not taught by the cited art. Claims 11-40 depend from one of claim 1, 4, and 10 and are believed to be allowable for at least the same reason as the claim from which they depend.

Further, Claims 11-40 are directed to subject matter which further supports the patentability of these claims. For a few examples, see Claims 14, 16, 21, and 38. Claim 14 recites "wherein the suspension seat cover, after shrinking, is configured to have give when mounted to a seat frame of a seat and supporting an occupant and to have sufficient memory to return the suspension seat cover to its post-heated condition after an occupant has departed from the seat." Claim 16 recites "wherein the seat cover, after shrinking, is configured to be sufficiently taut to support an occupant without a seat cushion." Claim 21 recites "wherein the seat cover is configured to be usable with a plurality of seat frames of different configurations." Finally, Claim 38 recites "wherein the shrink yarn is selected to provide the suspension seat cover with differing amounts of shrink."

Related Subject Matter

The subject matter of the present application appears to be related to another application filed on behalf of the present assignee, U.S. Patent Application No. 09/489,788. Copies of the Office Actions and cited references from that application will be provided in a separately filed IDS.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a

check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 10-17-03

By 

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JCC-3564



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,788	01/24/2000	Peter A. Pehur	1056A-012185	6275

7590

04/10/2002

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EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

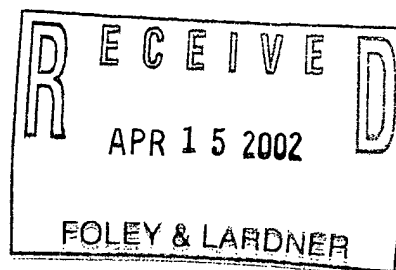
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DATE MAILED: 04/10/2002

RESPONSE DUE 10 JUL 2002

Please find below and/or attached an Office communication concerning this application or proceeding.



4/15/02
AM

Office Action Summary	Application No.	Applicant(s)	
	09/489,788	PEHUR ET AL.	
	Examiner	Art Unit	
	Marc A Patterson	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
|---|--|

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
The removal of a blocking agent is claimed, but is not discussed in the Specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5 – 7, 9, and 19 – 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term ‘includes’ is indefinite because it is unclear how the invention is being defined. For purposes of examination, the term will be assumed to mean ‘comprises’

5. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms ‘contourable,’ ‘operable’ and ‘shapeable’ are indefinite because it is unclear whether the component is contoured or shaped, and whether the cover is operated. For purposes

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of examination, it will be assumed that the component is contoured and shaped, and the cover is operated.

6. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to Claim 8, the phrase 'releaseably securable' is indefinite whether the cover is secured to the frame or not. For purposes of examination, it will be assumed that the cover is secured to the frame.

7. Claims 9 – 10 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term 'operable' is indefinite because it is unclear whether the cover is operated or not. For purposes of examination, it will be assumed that the cover is operated.

8. Claims 14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term 'controllable' is indefinite because it is unclear whether the shrinkage is controlled or not. For purposes of examination, it will be assumed that the shrinkage is initiated, and therefore controlled, by the application of heat.

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9. Claims 15 – 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms ‘angled’ and ‘perpendicular’ are indefinite because it is unclear to what reference point the shrinkage is angled or perpendicular. For purposes of examination, the terms will be assumed to refer to any direction.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2, 6 – 22 and 31 – 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooks et al (U.S. Patent No. 5,235,826).

With regard to Claims 1, 2, 19, 22 and 31 – 33, Brooks et al disclose an interior trim component (upholstered seat bottom; column 3, lines 3 – 14) comprising a foam core (therefore having an outer surface; column 3, lines 3 – 14) and a knitted fabric cover (it is therefore positioned over a portion of the outer surface of the core, and is attached by stitching, and is formed integrally with the cover; column 1, lines 56 – 66) comprising a portion which is heat shrinkable (a reinforcement member comprising a heat shrinkable thread is knitted into portions of the knitted fabric; the shrinkable portion therefore provides a reduction in size in at least one shrinkable direction; column 2, lines 18 – 41) the knit of the fabric is a jersey knit (column 3, lines 15 – 28).

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With regard to Claim 6, the core comprises a contoured and shaped component (the core itself), and the cover therefore covers the contours and shapes of the component

With regard to Claim 7, Brooks et al. teach that shrinkage occurs, on heating, only in the portions which contain the shrinkable threads (the threads shrink down to form a tight line in the fabric; column 8, lines 21 – 32); the claimed aspect of the cover comprising a ‘nonshrinkable portion attached to the shrinkable portion’ therefore reads on Brooks et al.

With regard to Claim 8, the core includes a frame (the core itself) to which the cover is secured.

With regard to Claims 9 and 10, the core comprises an opening (groove) in which the shrinkable portion fits (lies naturally; column 6, lines 57 – 67); the core therefore comprises an opening having an initial size, and the shrinkable portion is positioned about the opening such that the shrinkable portion reduces the initial size of the opening; the shrinkable portion also retains a close out panel (the cover) in position over the opening.

With regard to Claim 11, the shrinkable portion comprises shrinkable filaments (threads).

With regard to Claims 12 – 16, the shrinkable portion comprises one shrinkable filaments, or a plurality of adjacent shrinkable filaments (column 2, lines 18 – 41); the filaments are therefore positioned within the shrinkable portion such that a single shrinkage direction (and therefore shrinkage pattern) results or a plurality of shrinkage directions results.

With regard to Claim 17, heat (steam) is applied to cause shrinkage in at least one direction and amount (column 8, lines 21 – 32).

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With regard to Claim 18, the reduction in size creates a tension in a direction corresponding to the shrink direction (when the cover is placed on the core, the shrunken portion provides a 'tight line' which resists shuffling of the fabric on the core; column 6, lines 27 – 36).

With regard to Claim 20, the heat shrinkable filament is knitted into portions of the knitted fabric (column 1, lines 56 – 66); the shrinkable portion therefore comprises a slot – and – locking element, in which a locking element (the heat shrinkable filament) is operated with a slot (the knitted fabric into which it is woven) such that the reduction in size of the shrinkable portion causes the locking element to be secured through the slot.

With regard to Claim 21, the filament is heat – shrinkable, and is therefore prestretched.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 3 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al (U.S. Patent No. 5,235,826).

Brooks et al disclose a cover having a shrinkable portion as discussed above. Brooks et al fail to disclose a cover having a shrinkage range of 5% to 50% in one direction, and a shrinkage portion having an overall length and width dimension before and after shrinking, the resultant length dimension after shrinking being substantially equal to the original length, the resultant width dimension after shrinking being less than the original width. However, Brooks et al.

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disclose a shrinkage of 1% of both the length and width dimensions (the thread which is used is a heat – shrinkable thread; column 2, lines 18 – 36) therefore, the claimed range of shrinkage in the length and width dimensions would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end use of the product. It therefore would be obvious for one of ordinary skill in the art to vary range of shrinkage in the length and width dimension, since range of shrinkage in the length and width dimension would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Brooks et al. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al. (U.S. Patent No. 5,235,826) in view of Ono et al. (U.S. Patent No. 3,885,015).

Brooks et al disclose a cover having a jersey knit as discussed above. Brooks et al fail to disclose a cover in which the shrinkable portion comprises a napped portion.

Ono et al teach that jersey and napped knits are equivalent for the purpose of making woven goods having excellent outward appearance (column 3, lines 31 – 48).

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a napped knit (therefore providing a napped portion) in Brooks et al in order to make woven goods having excellent outward appearance as taught by Ono et al.

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Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

4/8/02

Notice of References Cited	Application/Control No. 09/489,788		Applicant(s)/Patent Under Reexamination PEHUR ET AL.	
	Examiner Marc A Patterson		Art Unit 1772	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-3885015	05-1975	Ono et al.	264/230
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



Form PTO-1449 (MODIFIED) INFORMATION DISCLOSURE CITATION (Use several sheets if necessary)	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY. DOCKET NO. 026032-3202	SERIAL NO. 09/489,7
	APPLICANT Pehur et al.		
	FILING DATE 01/24/2000	GROUP ART UNIT 3612	

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB- CLASS	FILI APPL
M.P.	A1	6,120,097	09/19/2000	Perry et al.	297	325	6/9/
M.P.	A2	5,836,655	11/17/1998	Laufer	297	452-63	1/23
M.P.	A3	5,372,668	12/13/1994	Bracesco	156	2002 214	11/23
M.P.	A4	5,235,826	08/17/1993	Brooks et al.	664-53	663R	3/9/
M.P.	A5	4,665,606	05/19/1987	Saito et al.	29	448	11/1
M.P.	A6	4,573,741	03/04/1986	Kirchner-Carl	297	452	11/2

FOREIGN PATENT DOCUMENTS

	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB- CLASS	TRAN YES

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER <i>Marie Pitter</i>	DATE CONSIDERED <i>4/4/02</i>
* EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP line through citation if not in conformance and not considered. Include any copy of this form communication to applicant.	

FORM HDP-1449 (Based on Form PTO-1449)

PATENT AND TRADEMARK OFFICE
INFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

Sheet 1 of 1

ATTORNEY DOCKET NO.

SERIAL NO.

1056A-012185

09/489,788

APPLICANT

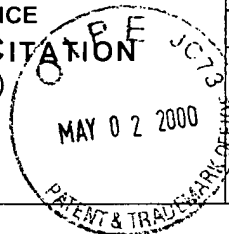
Pehur et al.

FILING DATE

GROUP

01/24/2000

3612



U.S. PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.	<i>M. L.</i>	5,762,842	06/09/1998	Burchi et al.	297/218.2	8/30/96
2.	<i>M. L.</i>	5,820,212	10/13/1998	Hoshino et al.	297/218.5	10/13/98
3.	<i>M. L.</i>	5,820,213	10/13/1998	Severinski	297/218.5	7/23/97
4.	<i>M. L.</i>	5,826,939	10/27/1998	Beyer	297/218.3	10/27/98
5.	<i>M. L.</i>	5,879,051	03/09/1999	Cozzani	297/218.3	3/9/99
6.	<i>M. L.</i>	5,882,073	03/16/1999	Burchi et al.	264/46.4	8/30/96
7.	<i>M. L.</i>	5,887,452	03/30/1999	Smith et al.	66/170	8/23/96
8.	<i>M. L.</i>	5,902,434	05/11/1999	Parrish	156/214	5/11/99

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Examiner: *Mark Patterson*Date Considered: *4/2/02*

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,788	01/24/2000	Peter A. Pehur	1056A-012185	6275

7590 10/24/2002
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EXAMINER

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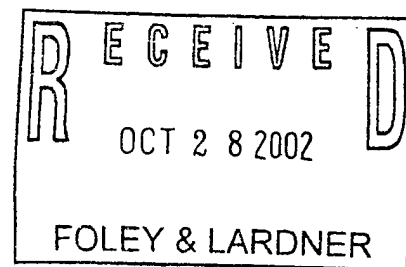
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DATE MAILED: 10/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

FRS/NOA
AMEND/APPEAL DUE 1-24-03
1mo RMR 12-24-02
3rd Ext 4-24-03



Cp 10/28/02

Office Action Summary

Application No.

09/489,788

Applicant(s)

PEHUR ET AL.

Examiner

Marc A Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 first paragraph rejection of Claim 21, 35 U.S.C. 112 second paragraph rejection of Claims 5 – 7, 9 – 10, 14, 15 – 17 and 19 – 20, 35 U.S.C. 102(b) rejection of Claims 1, 2, 6 – 22 and 31 – 33 as being anticipated by Brooks et al (U.S. Patent No. 5,235,826), 35 U.S.C. 103(a) rejection of Claims 3 – 4 as being unpatentable over Brooks et al (U.S. Patent No. 5,235,826), 35 U.S.C. 103(a) rejection of Claim 5 as being unpatentable over Brooks et al. (U.S. Patent No. 5,235,826) in view of Ono et al. (U.S. Patent No. 3,885,015), of record on page 2 of the previous Action, are withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase 'capable of being shaped and contoured' is indefinite as it is unclear whether shaping and contouring occurs or not. For purposes of examination, it will be assumed that shaping and contouring occurs.

4. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase 'capable of being arranged to form' is indefinite as it is unclear

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whether arrangement occurs or not. For purposes of examination, it will be assumed that arrangement occurs.

5. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase 'generally angled' is indefinite, as its meaning is unclear. For purposes of examination, the phrase will be assumed to mean 'generally perpendicular.'

6. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term 'predetermined' is indefinite, as its meaning is unclear.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 6 – 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooks et al (U.S. Patent No. 5,235,826).

With regard to Claims 1, 2, 19, and 22, Brooks et al disclose an interior trim component (upholstered seat bottom; column 3, lines 3 – 14) comprising a foam core (therefore having an outer surface; column 3, lines 3 – 14) and a knitted fabric cover (it is therefore positioned over a

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portion of the outer surface of the core, and is attached by stitching, and is formed integrally with the cover; column 1, lines 56 – 66) comprising a portion which is heat shrinkable (a reinforcement member comprising a heat shrinkable thread is knitted into portions of the knitted fabric; the shrinkable portion therefore provides a reduction in size in at least one shrinkable direction; column 2, lines 18 – 41) the knit of the fabric is a jersey knit (column 3, lines 15 – 28); the shrinkable portion of the cover is reduced in size following after the cover is placed about the outer surface of the core (the reinforcement member is treated after knitting; column 2, lines 10 – 14); however, this limitation is directed to a process, and is given little patentable weight.

With regard to Claim 6, the core comprises a contoured and shaped component (the core itself), and the cover therefore covers the contours and shapes of the component

With regard to Claim 7, Brooks et al. teach that shrinkage occurs, on heating, only in the portions which contain the shrinkable threads (the threads shrink down to form a tight line in the fabric; column 8, lines 21 – 32); the claimed aspect of the cover comprising a ‘nonshrinkable portion attached to the shrinkable portion’ therefore reads on Brooks et al.

With regard to Claim 8, the core includes a frame (the core itself) to which the cover is secured.

With regard to Claims 9 and 10, the core comprises an opening (groove) in which the shrinkable portion fits (lies naturally; column 6, lines 57 – 67); the core therefore comprises an opening having an initial size, and the shrinkable portion is positioned about the opening such that the shrinkable portion reduces the initial size of the opening (therefore as the shrinkable portion of the cover is reduced in size); the shrinkable portion also retains a close out panel (the cover) in position over the opening.

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With regard to Claim 11, the shrinkable portion comprises shrinkable filaments (threads).

With regard to Claims 12 – 16, the shrinkable portion comprises one shrinkable filaments, or a plurality of adjacent shrinkable filaments (column 2, lines 18 – 41); the filaments are therefore positioned within the shrinkable portion such that a single shrinkage direction (and therefore shrinkage pattern) results or a plurality of shrinkage directions results; the shrinkage directions comprise a first shrinkage direction which is generally perpendicular with respect to a second shrinkage direction (the tight line is produced in a wale – wise or course – wise direction; column 8, lines 33 – 36).

With regard to Claim 17, heat (steam) is applied to cause shrinkage in at least one direction and amount (column 8, lines 21 – 32).

With regard to Claim 18, the reduction in size creates a tension in a direction corresponding to the shrink direction (when the cover is placed on the core, the shrunken portion provides a ‘tight line’ which resists shuffling of the fabric on the core; column 6, lines 27 – 36).

With regard to Claim 20, the heat shrinkable filament is knitted into portions of the knitted fabric (column 1, lines 56 – 66); the shrinkable portion therefore comprises a slot – and – locking element, in which a locking element (the heat shrinkable filament) is operated with a slot (the knitted fabric into which it is woven) such that the reduction in size of the shrinkable portion causes the locking element to be secured through the slot.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3 – 4 and 31 – 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al (U.S. Patent No. 5,235,826).

Brooks et al disclose a cover having a shrinkable portion as discussed above. With regard to Claims 3 – 4 and 31 – 33, Brooks et al fail to disclose a cover having a shrinkage range of 5% to 50% in one direction, and a shrinkage portion having an overall length and width dimension before and after shrinking, the resultant length dimension after shrinking being substantially equal to the original length, the resultant width dimension after shrinking being less than the original width and a first shrinkable filament having a first reduction in length and a second shrinkable filament having a second reduction in length, the first reduction in length being unequal to the second. However, Brooks et al. disclose a shrinkage of 1% of both the length and width dimensions (the thread which is used is a heat – shrinkable thread; column 2, lines 18 – 36) and a first shrinkable filament having a first reduction in length and a second shrinkable filament having a second reduction in length, the first reduction in length being equal to the second (several tight lines are produced in the fabric; column 6, lines 67 – 68). Therefore, the claimed range of shrinkage in the length and width dimensions and ratio of the shrinkages of the filaments would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end use of the product. It therefore would be obvious for one of ordinary skill in the art to vary range of shrinkage in the length and width dimension and ratio of the shrinkages of the filaments, since the shrinkage in the length and width dimension and ratio of the shrinkages of the filaments would be readily determined through routine optimization

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by one having ordinary skill in the art depending on the desired end result as shown by Brooks et al. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al. (U.S. Patent No. 5,235,826) in view of Ono et al. (U.S. Patent No. 3,885,015).

Brooks et al disclose a cover having a jersey knit as discussed above. Brooks et al fail to disclose a cover in which the shrinkable portion comprises a napped portion.

Ono et al teach that jersey and napped knits are equivalent for the purpose of making woven goods having excellent outward appearance (column 3, lines 31 – 48).

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a napped knit (therefore providing a napped portion) in Brooks et al in order to make woven goods having excellent outward appearance as taught by Ono et al.

12. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al. (U.S. Patent No. 5,235,826) in view of Kavesh et al (U.S. Patent No. 3,885,015).

Brooks et al disclose a cover comprising a yarn which is heat – shrinkable, and therefore prestretched, as discussed above. Brooks et al fail to disclose a yarn comprising a blocking agent.

Kavesh et al teach that a heat – shrinkable yarn which comprises a blocking agent is equivalent to a yarn which does not comprise a blocking agent (column 3, lines 27 – 34; column 4, lines 33 – 35), for the purpose of obtaining a yarn which is heat shrunk with little or no tension applied (column 4, lines 36 – 37).

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It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a blocking agent in Brooks et al in order to obtain a yarn which is heat shrunk with little or no tension applied as taught by Kavesh et al; application of a catalyst (heat) to the blocking agent would therefore cause the reduction in size.

ANSWERS TO APPLICANT'S ARGUMENTS

13. Applicant's arguments regarding the 35 U.S.C. 112 first paragraph rejection of Claim 21, 35 U.S.C. 112 second paragraph rejection of Claims 5 – 7, 9 – 10, 14, 15 – 17 and 19 – 20, 35 U.S.C. 102(b) rejection of Claims 1, 2, 6 – 22 and 31 – 33 as being anticipated by Brooks et al (U.S. Patent No. 5,235,826), 35 U.S.C. 103(a) rejection of Claims 3 – 4 as being unpatentable over Brooks et al (U.S. Patent No. 5,235,826), 35 U.S.C. 103(a) rejection of Claim 5 as being unpatentable over Brooks et al. (U.S. Patent No. 5,235,826) in view of Ono et al. (U.S. Patent No. 3,885,015), of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn. The new 35 U.S.C. 112 second paragraph rejection of Claims 6, 14 – 15 and 17, 35 U.S.C. 102(b) rejection of Claims 1, 2, 6 – 20 and 22 as being anticipated by Brooks et al (U.S. Patent No. 5,235,826), 35 U.S.C. 103(a) rejection of Claims 3 – 4 and 31 – 33 as being unpatentable over Brooks et al (U.S. Patent No. 5,235,826), 35 U.S.C. 103(a) rejection of Claim 5 as being unpatentable over Brooks et al. (U.S. Patent No. 5,235,826) in view of Ono et al. (U.S. Patent No. 3,885,015) and 35 U.S.C. 103(a) rejection of Claim 21 as being unpatentable over Brooks et al. (U.S. Patent No. 5,235,826) in view of Kavesh et al (U.S. Patent No. 3,885,015) above are directed to amended Claims 1 – 22 and 31 – 33.

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14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

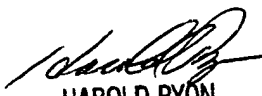
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
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HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

10/24/02

Notice of References Cited	Application/Control No. 09/489,788		Applicant(s)/Patent Under Reexamination PEHUR ET AL.	
	Examiner Marc A Patterson		Art Unit 1772	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5235826	08-1993	Brooks et al.	66/169
	B	US-4897902	02-1990	Kavesh et al.	28/166
	C	US-3885015	05-1975	Ono et al.	264/230
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.